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U.S. DISTRICT COURT

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S.D. OF N.Y.W.P.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
MALIBU MEDIA, LLC,  
  
Plaintiff,  
  
vs.  
  
JOHN DOE subscriber assigned IP address  
69.127.31.191,  
  
Defendant.  
-----X

Civil Action No. \_\_\_\_\_

**COMPLAINT – ACTION FOR  
DAMAGES FOR PROPERTY  
RIGHTS INFRINGEMENT**

**15 CV 0570**

JUDGE KALAS

Plaintiff, Malibu Media, LLC, sues Defendant John Doe subscriber assigned IP address  
69.127.31.191, and alleges:

**Introduction**

1. This matter arises under the United States Copyright Act of 1976, as amended, 17  
U.S.C. §§ 101 et seq. (the “Copyright Act”).

2. Defendant is a persistent online infringer of Plaintiff’s copyrights. Indeed,  
Defendant’s IP address as set forth on Exhibit A was used to illegally distribute each of the  
copyrighted movies set forth on Exhibit B.

3. Plaintiff is the registered owner of the copyrights set forth on Exhibit B (the  
“Copyrights-in-Suit”).

**Jurisdiction And Venue**

4. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §  
1331 (federal question); and 28 U.S.C. § 1338 (patents, copyrights, trademarks and unfair  
competition).

5. Plaintiff used proven IP address geolocation technology which has consistently worked in similar cases to ensure that the Defendant's acts of copyright infringement occurred using an Internet Protocol address ("IP address") traced to a physical address located within this District, and therefore this Court has personal jurisdiction over the Defendant because (i) Defendant committed the tortious conduct alleged in this Complaint in this State, and (ii) Defendant resides in this State and/or (iii) Defendant has engaged in substantial and not isolated business activity in this State.

6. Based upon experience filing over 1,000 cases the geolocation technology used by Plaintiff has proven to be accurate to the District level in over 99% of the cases.

7. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and (c), because: (i) a substantial part of the events or omissions giving rise to the claims occurred in this District; and, (ii) the Defendant resides (and therefore can be found) in this District and resides in this State; additionally, venue is proper in this District pursuant 28 U.S.C. § 1400(a) (venue for copyright cases) because Defendant or Defendant's agent resides or may be found in this District.

#### **Parties**

8. Plaintiff, Malibu Media, LLC, (d/b/a "X-Art.com") is a limited liability company organized and existing under the laws of the State of California and has its principal place of business located at 409 W. Olympic Blvd., Suite 501, Los Angeles, CA, 90015.

9. Plaintiff only knows Defendant by his, her or its IP Address. Defendant's IP address is set forth on Exhibit A.

10. Defendant's Internet Service Provider can identify the Defendant.

#### **Factual Background**

*I. Defendant Used the BitTorrent File Distribution Network To Infringe Plaintiff's Copyrights*

11. The BitTorrent file distribution network (“BitTorrent”) is one of the most common peer-to-peer file sharing systems used for distributing large amounts of data, including, but not limited to, digital movie files.

12. BitTorrent’s popularity stems from the ability of users to directly interact with each other in order to distribute a large file without creating a heavy load on any individual source computer and/or network. The methodology of BitTorrent allows users to interact directly with each other, thus avoiding the need for intermediary host websites which are subject to DMCA take down notices and potential regulatory enforcement actions.

13. In order to distribute a large file, the BitTorrent protocol breaks a file into many small pieces called bits. Users then exchange these small bits among each other instead of attempting to distribute a much larger digital file.

14. After the infringer receives all of the bits of a digital media file, the infringer’s BitTorrent client software reassembles the bits so that the file may be opened and utilized.

15. Each bit of a BitTorrent file is assigned a unique cryptographic hash value.

16. The cryptographic hash value of the bit (“bit hash”) acts as that bit’s unique digital fingerprint. Every digital file has one single possible cryptographic hash value correlating to it. The BitTorrent protocol utilizes cryptographic hash values to ensure each bit is properly routed amongst BitTorrent users as they engage in file sharing.

17. The entirety of the digital media file also has a unique cryptographic hash value (“file hash”), which acts as a digital fingerprint identifying the digital media file (e.g. a movie). Once infringers complete downloading all bits which comprise a digital media file, the BitTorrent software uses the file hash to determine that the file is complete and accurate.

18. Plaintiff's investigator, IPP International UG, established a direct TCP/IP connection with the Defendant's IP address as set forth on Exhibit A.

19. IPP International UG downloaded from Defendant one or more bits of each of the digital movie files identified by the file hashes on Exhibit A.

20. Defendant downloaded, copied, and distributed a complete copy of Plaintiff's movies without authorization as enumerated on Exhibit A.

21. Each of the cryptographic file hashes as set forth on Exhibit A correlates to a copyrighted movie owned by Plaintiff as identified on Exhibit B.

22. IPP International UG downloaded from Defendant one or more bits of each file hash listed on Exhibit A. IPP International UG further downloaded a full copy of each file hash from the BitTorrent file distribution network and confirmed through independent calculation that the file hash matched what is listed on Exhibit A. IPP International UG then verified that the digital media file correlating to each file hash listed on Exhibit A contained a copy of a movie which is identical (or alternatively, strikingly similar or substantially similar) to the movie associated with that file hash on Exhibit A. At no time did IPP International UG upload Plaintiff's copyrighted content to any other BitTorrent user.

23. IPP International UG connected, over a course of time, with Defendant's IP address for each hash value as listed on Exhibit A. The most recent TCP/IP connection between IPP and the Defendant's IP address for each file hash value listed on Exhibit A is included within the column labeled Hit Date UTC. UTC refers to Universal Time which is utilized for air traffic control as well as for computer forensic purposes.

24. An overview of the Copyrights-in-Suit, including each hit date, date of first publication, registration date, and registration number issued by the United States Copyright Office

is set forth on Exhibit B.

25. Plaintiff's evidence establishes that Defendant is a habitual and persistent BitTorrent user and copyright infringer.

**Miscellaneous**

26. All conditions precedent to bringing this action have occurred or been waived.

27. Plaintiff has retained counsel and is obligated to pay said counsel a reasonable fee for its services.

**COUNT I**  
**Direct Infringement Against Defendant**

28. The allegations contained in paragraphs 1-27 are hereby re-alleged as if fully set forth herein.

29. Plaintiff is the owner of the Copyrights-in-Suit, as outlined in Exhibit B, each of which covers an original work of authorship.

30. By using BitTorrent, Defendant copied and distributed the constituent elements of each of the original works covered by the Copyrights-in-Suit.

31. Plaintiff did not authorize, permit or consent to Defendant's distribution of its works.

32. As a result of the foregoing, Defendant violated Plaintiff's exclusive right to:

(A) Reproduce the works in copies, in violation of 17 U.S.C. §§ 106(1) and 501;

(B) Redistribute copies of the works to the public by sale or other transfer of ownership, or by rental, lease or lending, in violation of 17 U.S.C. §§ 106(3) and 501;

(C) Perform the copyrighted works, in violation of 17 U.S.C. §§ 106(4) and 501, by showing the works' images in any sequence and/or by making the sounds accompanying the works audible and transmitting said performance of the works, by means of a device or process, to

members of the public capable of receiving the display (as set forth in 17 U.S.C. § 101's definitions of "perform" and "publically" perform); and

(D) Display the copyrighted works, in violation of 17 U.S.C. §§ 106(5) and 501, by showing individual images of the works nonsequentially and transmitting said display of the works by means of a device or process to members of the public capable of receiving the display (as set forth in 17 U.S.C. § 101's definition of "publically" display).

33. Defendant's infringements were committed "willfully" within the meaning of 17 U.S.C. § 504(c)(2).

WHEREFORE, Plaintiff respectfully requests that the Court:

(A) Permanently enjoin Defendant and all other persons who are in active concert or participation with Defendant from continuing to infringe Plaintiff's copyrighted works;

(B) Order that Defendant delete and permanently remove the digital media files relating to Plaintiff's works from each of the computers under Defendant's possession, custody or control;

(C) Order that Defendant delete and permanently remove the infringing copies of the works Defendant has on computers under Defendant's possession, custody or control;

(D) Award Plaintiff statutory damages per infringed work pursuant to 17 U.S.C. § 504 (a) and (c);

(E) Award Plaintiff its reasonable attorneys' fees and costs pursuant to 17 U.S.C. § 505; and

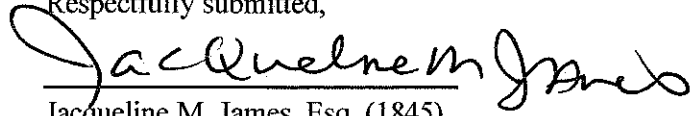
(F) Grant Plaintiff any other and further relief this Court deems just and proper.

**DEMAND FOR A JURY TRIAL**

Plaintiff hereby demands a trial by jury on all issues so triable.

Respectfully submitted,

By:

A handwritten signature in black ink, appearing to read "Jacqueline M. James", written over a horizontal line.

Jacqueline M. James, Esq. (1845)

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*Attorneys for Plaintiff*

## File Hashes for IP Address 69.127.31.191

ISP: Optimum Online

Physical Location: Yorktown Heights, NY

Hit Date UTC	File Hash	Title
12/14/2014 23:50:50	B2BE8CED9707899AAF5C35F69A38200723690B60	Sunset Memories
12/14/2014 23:37:19	676D3A4A4F169A41FB7097F347320A6574E601D3	Dancing Romance
12/07/2014 13:30:24	88880BA49BE6AECD218F30F515D301C1527CF1D2	Fuck Me More
12/07/2014 13:23:22	8D357CC8A76374C2534F5B6C92DFA6373DD18A48	Coming Late
11/26/2014 13:28:39	80A3176D85D32C18D0A990E2AA11CDCF68AA625D	Catching Up
11/24/2014 04:59:38	9F1BCB13265E3185001B40420DC655A8E1EF7A75	Double Oh Heaven
11/23/2014 21:02:31	2F4771020A9701851F7D58DDEC8A77D916B55650	Exposed And Aroused
11/09/2014 20:14:54	8C6F7B93472842C4DBD081201056822BEF60C625	Sweet Dreamers
09/24/2014 04:19:20	0C485A86BB4EB968F1BDCD9D362FF25C98C72879	Fun For Three
09/22/2014 05:17:18	40CCB20F645AB16BA04CDA7392E3DA38FC33852	Breakfast in Bed
09/21/2014 22:42:40	FF0DE517CC97C618D278732F4F6597C287DBD804	Pure Grace
09/21/2014 22:06:18	77E00754AC9EB6D7AE8F32FFD3E46D85A5347698	Amazing Grace
09/20/2014 21:53:04	AD3F53027CB90D4B3D4E1A6D35C2A3FDC210830C	My Days in Rome
09/09/2014 22:11:55	D2CEF42B12255477B18002859B65233E80C6FCE8	Be With Me
09/08/2014 19:28:16	AC1FB83507AD965F693D2FB5D9945E1140B148F4	Give Me More Part 2
09/08/2014 19:23:18	6EC4EAC1DF8D6C9F6A7C69FB03130A8273DBACF2	Epic Love
08/18/2014 13:04:29	8D2C71BBCC526E214853EB335EDBBDE2AF85FCDF	In for the Night
08/18/2014 12:46:09	2E6BD2E759CDE5E91A90C90442EA66B0CFE65E7F	California Dreams
07/16/2014 03:11:25	4D48C50B8394CD2C150BAA1E1666D242CE487F52	Tease and Please
07/14/2014 03:42:24	2245EB2CF65B3C68746DD467777C1AC6AA7DA42E	A Thought of You Part 2
06/29/2014 23:46:32	0FDC4744D319DB3683FBAE57013DD6D38DA73440	Zeppelin on Fire
06/29/2014 05:10:46	84ABF3B1B881BF16E463DEE19669223AB87B562F	Sex With Glasses

EXHIBIT A

SNY81



**Total Statutory Claims Against Defendant: 22**

## Copyrights-In-Suit for IP Address 69.127.31.191

ISP: Optimum Online

Location: Yorktown Heights, NY

Title	Registration Number	Date of First Publication	Registration Date	Most Recent Hit UTC
Sunset Memories	PA0001921296	10/31/2014	11/06/2014	12/14/2014
Dancing Romance	PA0001903915	06/07/2014	06/12/2014	12/14/2014
Fuck Me More	PA0001923957	11/22/2014	12/08/2014	12/07/2014
Coming Late	PA0001904286	06/19/2014	06/24/2014	12/07/2014
Catching Up	PA0001889391	04/13/2014	04/15/2014	11/26/2014
Double Oh Heaven	PA0001918736	10/15/2014	10/22/2014	11/24/2014
Exposed And Aroused	PA0001921293	11/01/2014	11/06/2014	11/23/2014
Sweet Dreamers	PA0001883771	03/09/2014	03/24/2014	11/09/2014
Fun For Three	PA0001914731	09/19/2014	09/22/2014	09/24/2014
Breakfast in Bed	PA0001787253	04/16/2012	04/17/2012	09/22/2014
Pure Grace	PA0001800484	07/11/2012	07/12/2012	09/21/2014
Amazing Grace	PA0001806477	09/14/2012	09/19/2012	09/21/2014
My Days in Rome	PA0001886187	03/28/2014	04/02/2014	09/20/2014
Be With Me	PA0001907574	07/21/2014	07/25/2014	09/09/2014
Give Me More Part 2	PA0001905479	06/29/2014	07/02/2014	09/08/2014
Epic Love	PA0001898091	05/25/2014	06/06/2014	09/08/2014
In for the Night	PA0001874670	01/06/2014	01/06/2014	08/18/2014
California Dreams	PA0001780564	03/12/2012	03/12/2012	08/18/2014
Tease and Please	PA0001871937	11/23/2013	11/29/2013	07/16/2014
A Thought of You Part 2	PA0001895665	05/13/2014	05/16/2014	07/14/2014
Zeppelin on Fire	PA0001874614	01/04/2014	01/05/2014	06/29/2014

EXHIBIT B

SNY81

<b>Title</b>	<b>Registration Number</b>	<b>Date of First Publication</b>	<b>Registration Date</b>	<b>Most Recent Hit UTC</b>
Sex With Glasses	PA0001903914	06/05/2014	06/12/2014	06/29/2014

Total Malibu Media, LLC Copyrights Infringed: 22

EXHIBIT B

SNY81